

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

W.P.(C).No.10819 of 2015 (B)

PETITIONER(S):-

JAMEELA BEEVI, AGED 45 YEARS, D/O. VAVUKHAN,
MUVUNKAL PURAYIDAM HOUSE, ERUMELY KARA,
ERUMELY P.O., ERUMELY SOUTH VILLAGE,
KANKURAPPALLY TALUK, KOTTAYAM DISTRICT-686509,

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL.

RESPONDENT(S):-

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1. DISTRICT COLLECTOR, KOTTAYAM DISTRICT-686001.
 2. REVENIUE DIVISIONAL OFFICER,
KOTTAYAM 686001.
 3. DEPUTY DIRECTOR OF SURVEY,
KOTTAYAM 686001.
 4. THAHASILDAR, KANJIRAPPALLY TALUK,
KANJIRAPPALLY, KOTTAYAM DISTRICT - 686509.
 5. TALUK SURVEYOR, KANJIRAPPALLY TALUK,
KANJIRAPPALLY, KOTTAYAM DISTRICT - 686509.
 6. ERUMELY GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
OFFICE OF ERUMELY GRAMA PANCHAYATH (SPECIAL GRADE),
ERUMELY P.O., KOTTAYAM DISTRICT - 686509.
 7. C.M. JOHN, AGED 79 YEARS, S/O. MATHEN,
CHALAKKUZHIYIL HOUSE, ERUMELY KARA,
ERUMELY P.O., ERUMELY SOUTH VILLAGE,
KANKURAPPALLY TALUK, KOTTAYAM DISTRICT - 686509.

8. MARIAMMA JOHN, AGED 70 YEARS, W/O. C.M.JOHN,
CHALAKKUZHIYIL HOUSE, ERUMELY KARA,
ERUMELY P.O., ERUMELY SOUTH VILLAGE,
KANKURAPPALLY TALUK, KOTTAYAM DISTRICT - 686509.

R1 TO R5 BY GOVERNMENT PLEADER SMT.C.K.SHERIN.
R6 BY STANDING COUNSEL SRI.MOHAN JACOB GEORGE.
R7 & R8 BY ADV. SMT.ASHA ELIZABETH MATHEW.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE LAND TAX RECEIPT OF THE PROPERTY.

EXHIBIT P2: TRUE COPY OF THE LAND TAX RECEIPT OF THE PROPERTY.

EXHIBIT P3: TRUE COPY OF THE STOP MEMO ISSUED BY THE
5TH RESPONDENT PANCHAYATH.

EXHIBIT P4: TRUE COPY OF THE INTERIM ORDER DATED 20.2.2015 IN
WP(C)NO.5438/2015.

EXHIBIT P5: TRUE COPY OF THE NOTICE ISSUED BY THE TALUK SURVEYOR,
KANJIRAPPALLY.

EXHIBIT P6: TRUE COPY OF THE RESURVEY PLAN OF THE PROPERTY OF
THE PETITIONER COMPRISED IN RESURVEY NO.102/29 AND
102/3 OF ERUMELI SOUTH VILLAGE.

EXHIBIT P7: TRUE COPY OF THE COMPLAINT FILED BEFORE THE
THAHASILDAR, KANJIRAPPALLY TALUK

EXHIBIT P8: TRUE COPY OF THE SKETCH PREPATED BY THE SURVEYOR
AFTER CONDUCTING MEASUREMENTS OF THE PROPERTY.

EXHIBIT P9: TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE
DISTRICT COLLECTOR, KOTTAYAM ALONG WITH THE
POSTAL RECEIPT.

EXHIBIT P10: TRUE COPY OF THE INJUNCTION ORDER IN I.A. NO.415/2015 IN
O.S. NO. 114/2015.

EXHIBIT P11: TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE
ERUMELY GRAMA PANCHAYATH DATED 27.3.2015 ALONG WITH
THE RECEIPT ISSUED BY THE ERUMELY GRAMA PANCHAYATH.

RESPONDENT(S)' EXHIBITS:-

EXT.R7(a) to (d) TRUE COPIES OF THE RECEIPTS DATED 28.03.2014
FOR PAYMENT OF PROPERTY TAX.

EXT.R7(e) TRUE COPY OF THE RECEIPT ISSUED BY THE
2ND RESPONDENT EVIDENCING RECEIPT OF
APPLICATION FOR BUILDING PERMIT ON 10.07.2014.

EXT.R7(f) TRUE COPY OF THE REPLY/EXPLANATION SUBMITTED
BEFORE THE 6TH RESPONDENT.

EXT.R7(g) TRUE COPY OF THE RECEIPT ISSUED BY THE
6TH RESPONDENT EVIDENCING THE RECEIPT OF
EXHIBIT R7(f) EXPLANATION.

EXT.R7(h) & R7(i) TRUE COPY OF THE APPLICATIONS DATED 02.03.2015
SUBMITTED BY RESPONDENTS 7 & 8 IN FORM 10
BEFORE THE 4TH RESPONDENT.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.10819 of 2015-B

Dated this the 30th day of June, 2015

JUDGMENT

The petitioner is aggrieved by the fact that, on the applications filed by the respondents 7 and 8, the petitioner's boundary was ascertained by the 5th respondent without notice to the petitioner and even without the presence of the petitioner. The petitioner's specific contention was that the petitioner was issued with a notice, to be present in the property on 21.03.2015. The petitioner asserts that on 21.03.2015, she was present in the property; but none came to carry out the measurement. Subsequently, when the petitioner was not present, the survey was said to have been carried on 24.03.2015.

2. Since there was considerable dispute as to when the survey was carried out and as to the presence of the petitioner, this Court directed the learned Government Pleader to produce the files. On the basis of the files, the learned Government Pleader asserts that the survey was carried out by the officials on 21.03.2015 and not on 24.03.2015. This runs

counter to the statement made by the respondents 7 and 8 in their counter affidavit that their property was measured on 24.03.2015 in the presence of the petitioner's brother.

3. A mere perusal of the records would indicate an unhappy situation in which the records do not speak the truth. This Court would not, at this stage look into the controversy. But, however, definitely on the conflicting statements made by the official respondents and the party respondents, it is clear that the survey was not carried out at the time which it is asserted to have been carried out. In such circumstance, it is only proper that the applications, at Exhibits R7(h) and R7(i) be considered afresh. The 4th respondent is directed to depute another officer to carry out the survey and comply with the directions hereinabove.

The writ petition is disposed of as above.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]